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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/622,650	01/18/2001	Stephen James Williams	C36510/10472	9072

7590 07/30/2002

Robert G Lancaster  
Bryan Cave  
One Metropolitan Square  
211 North Broadway Suite 3600  
St Louis, MO 63102

EXAMINER
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NGO, LIEN M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 07/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/622,650

Applicant(s)

WILLIAMS ET AL.

Examiner

LIEN TM NGO

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 15-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3727

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “series of inward projections which engage a complimentary recess in the closure” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. “series of inward projections which engage a complimentary recess in the closure” is not supported in the specification.

Art Unit: 3727

***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 15-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,016,929. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in claims 15-25 is inherent disclosed in the Patent No. 6,016,929.

Art Unit: 3727

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 15-20 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cautereels (5,316,160) in view of Sanz et al. (EP 0819471). Cautereels discloses, in figs. 1 and 2, a feeding bottle comprising a body 10, a body mouth 22 which is sealable by a screw closure 42, and a teat 18 having a flange 20 of smaller diameter than the body mouth. The body is a see-through bottle with graduation marking. Cautereels does not disclose the bottle made of plastic and the closure being irremovable from the body when it is in the closed position. However, Sanz et al. teach, in fig. 3, a feed bottle comprising a set of ratchet teeth on a closure which cooperate with a lug on the bottle so that the closure being irremovable from the bottle when it is in the closed position. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the feeding bottle of Cautereels having a irremovable closure, as taught by Sanz et al., in order to make a disposable feeding bottle for once use only.

The feeding bottle made of plastic is well known in the art, and the body is made of polypropylene and the closure is made of high-density polyethylene are obvious matters of design

Art Unit: 3727

choices, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

8. Claims 15-22, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritsi (3,549,036) in view of Sanz et al. (EP 0819471). Ritsi discloses, in figs. 1, 2, 4 and 7, a plastic feeding bottle comprising a body 10, a body mouth 11 which is sealable by a screw closure 14, a teat 13 having a flange 30 of smaller diameter than the body mouth, and a teat shield 15. Ritsi does not disclose the closure being irremovable from the body when it is in the closed position. However, Sanz et al. teach, in fig. 3, a feed bottle comprising a set of ratchet teeth on a closure which cooperate with a lug on the bottle so that the closure being irremovable from the bottle when it is in the closed position. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the feeding bottle of Ritsi having a irremovable closure, as taught by Sanz et al., in order to make a disposable feeding bottle for once use only.

9. Examiner notes that the process limitations in the claims such as aseptic process, injection-molding operation, two-stage aseptic process, etc. are not considered for patentability because the patentability of a produce does not depend of its method of production (see Product-by Process Claims in MPEP 2113).

Art Unit: 3727

10. Applicant's arguments filed 6/3/02 have been fully considered but they are not persuasive as pointed out in the above rejections.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3727

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

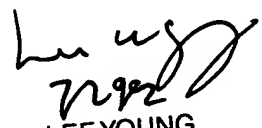
If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3597.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.



Lien Ngo

July 29, 2002



LEE YOUNG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700